

FILED

STIPULATION FOR DISMISSAL AND RELEASE OF CLAIMS

DEC 04 2015

**SECRETARY, BOARD OF
OIL, GAS & MINING**

The Utah Division of Oil, Gas and Mining (the Division) and Zurich American Insurance Company (Zurich) acting on behalf of Fidelity and Deposit Company of Maryland (Fidelity) (together, the Parties), intending to fully resolve the claims and disputes between them as discussed below, enter into this Stipulation for Dismissal and Release of Claims (the Stipulation) on this 4th day of December, 2015.

RECITALS

1. In November 2013, Blue Mountain Crushing, LLC (BMC) filed a Notice of Intention to Commence Small Mining Operations (an NOI) to operate the BMC Seep's Ridge Road Pit Mine (the Mine). The Mine was given permit number S/047/0119.
2. Pursuant to Utah Administrative Code Rule 647-3-111, BMC posted a reclamation surety in the amount of \$62,200 as calculated by the Division, and entered into a reclamation contract with the Division. Fidelity is the underwriter of the reclamation surety provided by BMC.
3. On October 25, 2015, the Division filed a Notice of Agency Action (NOAA) with the Utah Board of Oil, Gas and Mining, as Cause No. S/047/0119, Docket No. 2015-029, in which it sought an order that, among other things, required Fidelity to forfeit the \$62,200 reclamation surety to the Division and authorized the Division to reclaim the Mine with the forfeited funds. A hearing on the NOAA is set for December 9, 2015.
4. Zurich does not contest the Division's allegations against Fidelity as set forth in the NOAA—that Fidelity remains liable for reclamation of the Mine—and is willing to provide the \$62,200 reclamation surety to the Division in order to settle the claims.
5. The Parties desire to enter into this Stipulation to resolve the Division's claims against Fidelity and to release Fidelity from further liability.

TERMS AND CONDITIONS

The Parties agree as follows:

6. This Stipulation will be presented at the hearing before the Board on December 9, 2015 at 9:00 a.m. in the auditorium of the Utah Department of Natural Resources. Zurich enters into this Stipulation in lieu of Fidelity filing a response to the Division's NOAA or entering an appearance at the hearing.

7. Zurich will deliver to the Division the \$62,200 reclamation surety by December 9, 2015, in the form of a check made payable to the Division of Oil, Gas and Mining. This check will be sent to the following address:

Paul Baker
Utah Division of Oil, Gas and Mining
P.O. Box 145801
Salt Lake City, Utah 84114-5801

8. This Stipulation is subject to approval of the Board and will not release BMC from any of its obligations to the Division under the Utah Mined Land Reclamation Act as described in the NOAA.


9. Upon receipt of the reclamation surety as provided in Paragraph 7, and upon the Board's approval of this Stipulation, Zurich and Fidelity will be released from all claims the Division has against them in this matter.


10. In accordance with Utah Administrative Code Rule 647-3-112, upon the Board's approval of this Stipulation, the Division will use the reclamation surety to reclaim the Mine, and any money not used for reclamation will be returned to Zurich once the Division deems reclamation to be complete under Rule 647-3-109.


11. If any provision of this Stipulation is determined to be invalid or unenforceable, all other provisions will remain in full force and effect. If, after a determination of invalidity, this Stipulation no longer achieves what the Parties desire, the Parties will negotiate to modify the Stipulation to achieve their original intent.

12. Each Party represents and warrants that the undersigned individuals have the authority to act on behalf of and to bind it. Facsimiles or electronic signatures will be deemed originals.

Agreed to this 4th day of December, 2015 by the following:


Dennis R. Hayden
Zurich North America
Commercial Surety Claims


John Baza
Director, Utah Division of Oil, Gas and
Mining


Melissa L. Reynolds
John Robinson, Jr.
Assistant Attorneys General

*Attorneys for Utah Division of Oil, Gas and
Mining*